

**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

PENNY LEA FAIRMAN

Respondent.

Case No. 2007-282

OAH No.

DECISION AND ORDER

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 2, 2007.

IT IS SO ORDERED October 2, 2007.

LaTranene W Tate

FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART, State Bar No. 083047
Supervising Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
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Sacramento, CA 94244-2550
6 Telephone: (916) 324-5339
Facsimile: (916) 327-8643

7 Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2007-282

12 **PENNY LEA FAIRMAN**
13 **aka PENNY FAIRMAN**
P.O. Box 876
14 Show Low, AZ 85902

**STIPULATED SURRENDER OF
LICENSE AND CERTIFICATES
AND ORDER**

15 Registered Nurse License No. 345528
Nurse Practitioner Certificate No. 11585
16 Clinical Nurse Specialist Certificate No. 1212
Nurse Practitioner Furnishing Certificate No.
17 11585

18 Respondent.

19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in
20 this proceeding that the following matters are true:

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H, R.N (Complainant) is the Executive Officer of
23 the Board of Registered Nursing. She brought this action solely in her official capacity and is
24 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,
25 by Arthur D. Taggart, Supervising Deputy Attorney General.

26 2. Penny Fairman, RN (Respondent) is representing herself in this
27 proceeding and has chosen not to exercise her right to be represented by counsel.

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1 3. On or about May 31, 1982, the Board of Registered Nursing issued
2 Registered Nurse No. 345528 to Respondent. The license expired on March 31, 2006, and has
3 not been renewed.

4 4. On or about June 15, 2000, the Board of Registered Nursing issued Nurse
5 Practitioner Certificate No. 11585 Respondent. The Certificate expired on March 31, 2006, and
6 has not been renewed.

7 5. On or about October 19, 1999, the Board issued Clinical Nurse Specialist
8 Certificate Number 1212 to Respondent. The Certificate expired March 31, 2004, and has not
9 been renewed.

10 6 On or about April 16, 2001, the Board of Registered Nursing issued
11 Nurse Practitioner Furnishing Certificate No. 11585 to Respondent. The Certificate expired on
12 March 31, 2004, and has not been renewed.

13 JURISDICTION

14 7. Accusation No. 2007-282 was filed before the Board of Registered
15 Nursing (Board), Department of Consumer Affairs, and is currently pending against
16 Respondent. The Accusation and all other statutorily required documents were properly served
17 on Respondent on May 7, 2007. Respondent timely filed her Notice of Defense contesting the
18 Accusation. A copy of Accusation No. 2007-282 is attached as exhibit A and incorporated
19 herein by reference.

20 ADVISEMENT AND WAIVERS

21 8. Respondent has carefully read, and understands the charges and
22 allegations in Accusation No. 2007-282. Respondent also has carefully read, and fully
23 understands the effects of this Stipulated Surrender of License and Order.

24 9. Respondent is fully aware of her legal rights in this matter, including the
25 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
26 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
27 the right to present evidence and to testify on her own behalf; the right to the issuance of
28 subpoenas to compel the attendance of witnesses and the production of documents; the right to

reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

10 Respondent voluntarily, knowingly, and intelligently waives and gives up
each and every right set forth above.

CULPABILITY

11. Respondent admits the truth of each and every charge and allegation in Accusation No. 2007-282, agrees that cause exists for discipline based on these admissions, and hereby surrenders her Registered Nurse No. 345528, Nurse Practitioner Certificate No. 11585, Clinical Nurse Specialist Certificate No. 1212, and Nurse Practitioner Furnishing Certificate No. 11585 for the formal acceptance by the Board.

12. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Registered Nurse License, Nurse Practitioner Certificate, Clinical Nurse Specialist Certificate and Nurse Practitioner Furnishing Certificate without further process.

CONTINGENCY

13. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the Board staff of the Board may communicate directly with the Board regarding this stipulation, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

14. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

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15. In consideration of the foregoing admissions and stipulations, the parties agree that the (Board) may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Registered Nurse License No. 345528, Nurse Practitioner Certificate No. 11585, Clinical Nurse Specialist Certificate No. 1212, and Nurse Practitioner Furnishing Certificate No. 11585 issued to Respondent Penny Fairman are surrendered and accepted by the Board of Registered Nursing.

16. The surrender of Respondent's Registered Nurse License, Nurse Practitioner Certificate, Clinical Nurse Specialist Certificate and Nurse Practitioner Furnishing Certificate and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

17. Respondent shall lose all rights and privileges as a Registered Nurse, Nurse Practitioner, Clinical Nurse Specialist, and Nurse Practitioner Furnishing in California as of the effective date of the Board's Decision and Order.

18. Respondent shall cause to be delivered to the Board all wall and pocket license certificates on or before the effective date of the Decision and Order.

19. Respondent understands and agrees that if she ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the petition is filed. All of the charges and allegations contained in Accusation No. 2007-282 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the petition.

20. Upon reinstatement of the license, Respondent shall pay to the Board costs associated with its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the amount of Seven Hundred and Seventy One Dollars and Seventy-Five

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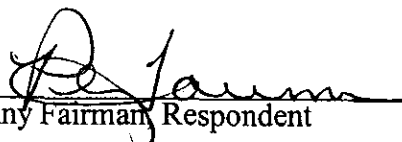
1 Cents (\$771.75). Respondent shall be permitted to pay these costs in a payment plan approved
2 by the Board.

3 21. Respondent shall not apply for licensure or petition for reinstatement for
4 two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

5
6 ACCEPTANCE

7 I understand I have a right to be represented by legal counsel at my own expense.
8 I have chosen to represent myself. I have also carefully read the Stipulated Surrender of
9 License and Order. I understand the stipulation and the effect it will have on my Registered
10 Nurse License, Nurse Practitioner Certificate, Clinical Nurse Specialist Certificate and Nurse
11 Practitioner Furnishing Certificate. I enter into this Stipulated Surrender of License and Order
12 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of
13 the Board of Registered Nursing.

14 DATED: 7-9-07


15
16 
17 Penny Fairman Respondent

18 ENDORSEMENT

19 The foregoing Stipulated Surrender of License and Order is hereby respectfully
20 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
21 Affairs.

22 DATED: July 17, 2007

23 EDMUND G. BROWN JR., Attorney General
24 of the State of California

25 
26 ARTHUR D. TAGGART
27 Supervising Deputy Attorney General

28 Attorneys for Complainant

Exhibit A

Accusation No. 2007-282

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 ALFREDO TERRAZAS
Senior Assistant Attorney General
3 ARTHUR D. TAGGART, State Bar No. 83047
Supervising Deputy Attorney General
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Facsimile: (916) 327-8643

7 Attorneys for Complainant
8

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 2007-282

13 PENNY LEA FAIRMAN,
a.k.a. PENNY FAIRMAN
14 P.O. Box 876
Show Low, AZ 85902

ACCUSATION

15 Registered Nurse License No. 345528
16 Nurse Practitioner Certificate No. 11585
Clinical Nurse Specialist Certificate No. 1212
17 Nurse Practitioner Furnishing Certificate No.
11585

18 Respondent.
19

20 Complainant alleges:

21 **PARTIES**

22 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation
23 solely in her official capacity as the Executive Officer of the Board of Registered Nursing
24 ("Board"), Department of Consumer Affairs.

25 **Registered Nurse License No. 345528**

26 2. On or about May 31, 1982, the Board issued Registered Nurse License
27 Number 345528 to Penny Lea Fairman, also known as Penny Fairman ("Respondent").
28 Respondent's registered nurse license expired on March 31, 2006.

1 **Nurse Practitioner Certificate No. 11585**

2 3. On or about June 15, 2000, the Board issued Nurse Practitioner Certificate
3 Number 11585 to Respondent. Respondent's nurse practitioner certificate expired March 31,
4 2006.

5 **Clinical Nurse Specialist Certificate No. 1212**

6 4. On or about October 19, 1999, the Board issued Clinical Nurse Specialist
7 Certificate Number 1212 to Respondent. Respondent's clinical nurse specialist certificate
8 expired on March 31, 2004.

9 **Nurse Practitioner Furnishing Certificate No. 11585**

10 5. On or about April 16, 2001, the Board issued Nurse Practitioner
11 Furnishing Certificate Number 11585 to Respondent. Respondent's nurse practitioner furnishing
12 certificate expired on March 31, 2004.

13 **STATUTORY PROVISIONS**

14 6. Business and Professions Code ("Code") section 2750 provides, in
15 pertinent part, that the Board may discipline any licensee, including a licensee holding a
16 temporary or an inactive license, for any reason provided in Article 3 (commencing with section
17 2750) of the Nursing Practice Act.

18 7. Code section 2764 provides, in pertinent part, that the expiration of a
19 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
20 against the licensee or to render a decision imposing discipline on the license. Under Code
21 section 2811, subdivision (b), the Board may renew an expired license at any time within eight
22 years after the expiration.

23 8. Code section 2761 states, in pertinent part:

24 The board may take disciplinary action against a certified or licensed nurse
25 or deny an application for a certificate or license for any of the following:

26 (a) Unprofessional conduct. . .

27

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1 (4) Denial of licensure, revocation, suspension, restriction, or any other
2 disciplinary action against a health care professional license or certificate by
3 another state or territory of the United States, by any other government agency, or
4 by another California health care professional licensing board. A certified copy of
5 the decision or judgment shall be conclusive evidence of that action. . .

6 COST RECOVERY

7 9. Code section 125.3 provides, in pertinent part, that the Board may request
8 the administrative law judge to direct a licensee found to have committed a violation or
9 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
10 and enforcement of the case.

11 CAUSE FOR DISCIPLINE

12 (Out-of-State Disciplinary Actions)

13 10. Respondent is subject to disciplinary action pursuant to Code section
14 2761, subdivision (a)(4), on the grounds of unprofessional conduct, in that she was disciplined by
15 the Washington State Department of Health Nursing Care Quality Assurance Commission
16 ("Washington Commission") and the Arizona State Board of Nursing ("Arizona Board") as
17 follows:

18 Washington Commission

19 11. On or about January 27, 2006, pursuant to the Stipulation to Informal
20 Disposition ("Stipulation") entered into between Respondent and the Washington Commission,
21 in the disciplinary proceeding titled *In the Matter of the Licenses to Practice as a Registered*
22 *Nurse and Advanced Registered Nurse Practitioner of: Penny Fairman, RN, ARNP, etc., Docket*
23 *Nos. 04-12-A-1040RN and 04-12-A-1041AP*, Respondent's license to practice in the state of
24 Washington was restricted for a period of twenty-four (24) months^{1/}. Thereafter, Respondent
25 would be required to submit a written request to the Washington Commission for modification or
26 termination of the Stipulation, and be prepared to provide proof of satisfactory compliance with

27 ///

28 1. The practice restrictions would apply if Respondent renewed or reactivated either her registered nurse or
advanced registered nurse practitioner license in Washington State prior to modification or termination of the
Stipulation.

1 the terms and conditions imposed therein. A true and correct copy of the Stipulation is attached
2 as Exhibit "A" and incorporated herein by reference.

3 **Arizona Board**

4 12. On or about May 18, 2006, pursuant to the Findings of Fact, Conclusions
5 of Law and Order No. 05A-0407091-NUR adopted by the Arizona Board, in the disciplinary
6 proceeding titled *In the Matter of Professional Nurse License No. RN038753 Issued to: Penny*
7 *Lea Fairman*, Respondent was placed on probation for thirty-six (36) months on terms and
8 conditions. A true and correct copy of the Findings of Fact, Conclusions of Law and Order is
9 attached as exhibit "B" and incorporated herein by reference.

10 13. Pursuant to the Findings of Fact, Conclusions of Law and Order, the
11 Arizona Board found that Respondent committed acts constituting unprofessional conduct, in
12 violation of A.R.S. § 32-1601(16)(a) (committing fraud or deceit in obtaining, attempting to
13 obtain or renewing a license or certificate issued pursuant to this chapter); A.R.S. § 32-
14 1601(16)(h) (committing an act that deceives, defrauds or harms the public); A.R.S. § 32-
15 1601(16)(j) (violating a rule that is adopted by the board pursuant to this chapter, specifically,
16 A.A.C. R4-19-403 (13) (obtaining, possessing, administering, or using any narcotic, controlled
17 substance, or illegal drugs in violation of any federal or state criminal law, or in violation of the
18 policy of any health care facility, school, institution, or other work location at which the nurse
19 practices); and A.R.S. § 32-1601(16)(j) (violating a rule that is adopted by the board pursuant to
20 this chapter, specifically, A.A.C. R4-19-405(15) (engaging in fraud, misrepresentation, or deceit
21 in writing the licensing examination or on an application for licensure or a renewal of license).

22 **PRAYER**


23 WHEREFORE, Complainant requests that a hearing be held on the matters herein
24 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

25 1. Revoking or suspending registered Nurse License Number 345528, issued
26 to Penny Lea Fairman, also known as Penny Fairman;

27 2. Revoking or suspending Nurse Practitioner Certificate Number 11585,
28 issued to Penny Lea Fairman, also known as Penny Fairman;

- 1 3. Revoking or suspending Clinical Nurse Specialist Certificate Number
2 1212, issued to Penny Lea Fairman, also known as Penny Fairman;
3 4. Revoking or suspending Nurse Practitioner Furnishing Certificate Number
4 11585, issued to Penny Lea Fairman, also known as Penny Fairman;
5 5. Ordering Penny Lea Fairman, also known as Penny Fairman, to pay the
6 Board of Registered Nursing the reasonable costs of the investigation and enforcement of this
7 case, pursuant to Business and Professions Code section 125.3; and
8 6. Taking such other and further action as deemed necessary and proper.
9

10 DATED: 4/30/07
11
12

13 
14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant
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27 03579110-SA2006103073

28 Fairman, Penny.acc.wpd

clp; 3/23/07

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EXHIBIT A

Stipulation to Informal Disposition

**STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE COMMISSION**

In the Matter of the Licenses to Practice
as a Registered Nurse and Advanced
Registered Nurse Practitioner of:

PENNY FAIRMAN, RN, ARNP,
Credential No. RN00145459,
Credential No. AP30006209,

Respondent.

) Docket No. 04-12-A-1040RN
) 04-12-A-1041AP
)

) STIPULATION TO INFORMAL
) DISPOSITION
)
)

Section 1: STIPULATION

The parties to the above-entitled matter stipulate as follows:

1.1 Penny Fairman, RN, ARNP, Respondent, is informed and understands that the Health Services Consultant of the Nursing Care Quality Assurance Commission (Commission), on designation by the Commission, has made the following allegations:

1.1.1 Penny Fairman, RN, ARNP, Respondent, was issued licenses to practice as a Registered Nurse and as an Advanced Registered Nurse Practitioner by the state of Washington in May 2002. Respondent's licenses expired on February 9, 2005, but are subject to renewal.

1.1.2 On or about January 2, 2004, Respondent was employed at Bogachiel Clinic, Forks, WA.

1.1.3 On January 2, 2004, [REDACTED]

1.1.4 On or about January 2, 2004, Respondent [REDACTED]

1.1.5 On or about January 8, 2004, Respondent [REDACTED]

1.1.6 On or about March 31, 2004, Respondent [REDACTED]
[REDACTED]

1.1.7 On or about April 23, 2004, Respondent [REDACTED]
[REDACTED]

1.1.8 On or about April 23, 2004, Respondent [REDACTED]
[REDACTED]

1.1.9 On or about May 17, 2004, Respondent [REDACTED]
[REDACTED]

1.2 Respondent is informed and understands that the Commission has alleged that the conduct described above, if proven, would constitute a violation of RCW 18.130.180(1) and (6).

1.3 The parties wish to resolve this matter by means of a Stipulation to Informal Disposition (Stipulation) pursuant to RCW 18.130.172(1).

1.4 Respondent agrees to be bound by the terms and conditions of the Stipulation.

1.5 This Stipulation is of no force and effect and is not binding on the parties unless and until it is accepted by the Commission.

1.6 Respondent does not admit any of the allegations in the Statement of Allegations and Summary of Evidence or in paragraph 1.1 above. This Stipulation shall not be construed as a finding of unprofessional conduct or inability to practice.

1.7 This Stipulation is not formal disciplinary action. However, it is subject to the federal reporting requirements pursuant to Section 1128E of the Social Security Act – 42 U.S.C. 1320a-7e (g)(1)(A)(iii)(III), and 45 C.F.R. 61.7(a)(3).

1.8 This Stipulation is releasable to the public upon request pursuant to the Public Records Act, chapter 42.17 RCW. The Statement of Allegations and Summary of Evidence and the Stipulation to Informal Disposition shall remain part of Respondent's file and cannot be expunged.

1.9 The Commission agrees to forego further disciplinary proceedings concerning the allegations contained in paragraph 1.1 above.

1.10 Respondent agrees to successfully complete the terms and conditions of this Stipulation.

1.11 Respondent is advised and understands that a violation of the provisions of Section 2 of this Stipulation to Informal Disposition, if proved, would constitute grounds for discipline under RCW 18.130.180 and the imposition of sanctions under RCW 18.130.160.

Section 2: INFORMAL DISPOSITION

Pursuant to RCW 18.130.172 (2) and based upon the foregoing stipulation, the parties agree to the following Informal Disposition:

2.1 The Commission accepts the Independent Substance Use and Psychiatric Evaluation prepared by Performax for the Arizona State Board of Nursing dated on or about March 11, 2005, as though prepared at the Commission's request.

2.2 Respondent may submit a written request for modification or termination of this Stipulation no sooner than twenty-four (24) months from the effective date of this Stipulation. Respondent must at that time be prepared to provide proof of satisfactory compliance with the terms and conditions imposed in this Stipulation. Respondent must personally appear before the Commission at any such hearing, however, at the discretion of a Reviewing Commission Member, the terms and conditions of this Stipulation may be modified through an Agreed Order. Upon notice and an opportunity for Respondent to be heard, the Commission may impose additional conditions after reviewing the documents submitted and reviewing the Respondent's compliance with this Stipulation.

2.3 Respondent shall inform the Commission and the Adjudicative Services Unit in writing, of changes in her residential address within thirty (30) days of such change. Respondent shall notify the Commission in writing of any change in employment in the health care field within thirty (30) days of the employment or change in employment and shall include the complete new address and telephone number.

2.4 The practice restrictions in this paragraph 2.4 apply if Respondent renews or reactivates either her registered nurse or advanced registered nurse practitioner license in Washington State prior to modification or termination of this Stipulation.

2.4.1 Respondent shall submit personal progress reports directly to the Commission, on forms supplied by the Commission, dealing with her methods of handling stress, use of and handling of drugs, mental and physical health, methods of dealing with legal charges, professional responsibilities and activities.

and personal activities as they relate to practice as a nurse. The first report shall be due thirty (30) days from the date that Respondent renews or reactivates either of her licenses in Washington State. Reports shall be submitted every three (3) months thereafter unless or until otherwise deemed less frequently or no longer required by the Commission and Respondent is so notified in writing.

2.4.2 Respondent shall cause her nurse supervisor to submit performance evaluation reports directly to the Commission on forms provided by the Commission. The first report shall be due thirty (30) days from the date that Respondent renews or reactivates either of her licenses in Washington State. Reports shall be submitted every three (3) months thereafter, unless or until otherwise deemed less frequently or no longer required by the Commission.

2.4.3 Respondent shall obtain or continue counseling from a qualified counselor, psychiatrist or psychologist, and shall cause the counselor to submit quarterly reports directly to the Commission on forms provided by the Commission. Respondent shall provide a copy of this Stipulation to the counselor and shall ensure that the counselor makes reference thereto in the quarterly reports. Reports are to include the treatment plan, objectives, progress and prognosis of the treatment. Respondent is to notify the Commission and obtain prior approval of any changes in counselors. The first report shall be due thirty (30) days from the date that Respondent renews or reactivates either of her licenses in Washington State, and reports shall be submitted every three (3) months thereafter unless or until otherwise deemed less frequently or no longer required by the Commission.

2.4.4 Respondent must not accept employment in the health care field in Washington State without prior approval from the Commission.

2.4.5 Respondent must not accept employment in Washington State by a nurses' registry, home health, temporary agency, or community based care setting (adult family home, boarding home, etc.), or use her nurse licenses to work as nursing assistant, home health aide, or other health care provider.

2.4.6 Respondent's employment as a RN in Washington State is restricted to settings in which indirect supervision is provided pursuant to WAC 246-840-

010(11)(e), and Respondent must not function as a supervisor, head nurse, or charge nurse.

2.4.7 Respondent must not accept employment in the health care field in Washington State where she has access to controlled substances.

2.4.8 Respondent must not exercise prescriptive authority under her ARNP license in Washington State.

2.5 Respondent must obtain all prescriptions for controlled substances from a single prescribing practitioner. Respondent must inform the Commission in writing, of the name, address, and telephone number of her prescribing practitioner within thirty (30) days of the effective date of this Stipulation. Respondent also must inform the Commission within thirty (30) days of any change of her prescribing practitioner.

2.6 Respondent must notify the Commission of any controlled substances prescribed by a practitioner at the time of prescription, including documentation from the prescribing practitioner detailing the reasons for the drug, the dose and the expected length of time the drug will be prescribed.

2.7 Respondent must obtain all prescriptions for controlled substances from a single pharmacy. Respondent must inform the Commission in writing, of the name, address, and telephone number of her pharmacy within thirty (30) days of the effective date of this Stipulation. Respondent also must inform the Commission within thirty (30) days of any change of her pharmacy.

2.8 Respondent must participate in random and observed biological fluid testing drug screens specifically for substance(s) of abuse as determined by the Commission. Said testing shall be at Respondent's expense at least 12 times per year unless or until otherwise deemed less frequently or no longer required by the Commission and Respondent is so notified in writing. Testing shall take place only at a facility approved in advance by the Commission. If respondent is required to participate in random biological fluid testing drug screens by the Arizona State Board of Nursing, then Respondent may submit those test results for compliance purposes.

2.9 Respondent must submit a type written report of at least 1,000 words with an annotated bibliography on ethical issues related to pain management and the dispensing of controlled substances, including self-prescription practices and the role of nursing administrators in preparing students to face ethical dilemmas in the nursing

profession. This report must be submitted to the Commission for review and approval no later than six (6) months from the effective date of this Stipulation.

2.10 Respondent shall reimburse costs to the Commission in the amount of one thousand dollars (\$1,000.00) which must be received by the Commission within twelve (12) months of the effective date of this Stipulation. The reimbursement shall be paid by certified or cashier's check or money order, made payable to the Department of Health and mailed to the Department of Health, Nursing Commission at P.O. Box 1099, Olympia, Washington 98507-1099.

2.11 Respondent shall assume all costs of complying with this Stipulation to Informal Disposition.

2.12 Respondent shall obey all federal, state and local laws and all administrative rules governing the practice of the profession in Washington.

2.13 If Respondent violates any provision of this Stipulation to Informal Disposition in any respect, the Commission may take further action against Respondent's license.

2.14 The effective date of this Stipulation to Informal Disposition is the date the Adjudicative Service Unit places the signed Stipulation to Informal Disposition into the U.S. mail. The Respondent shall not submit any fees or compliance documents until after the effective date of this Stipulation to Informal Disposition.

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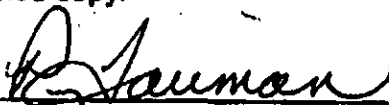
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Section 3: ACKNOWLEDGMENT

I, Penny Fairman, RN, ARNP, Respondent, certify that I have read this Stipulation to Informal Disposition in its entirety; that my counsel of record, if any, has fully explained the legal significance and consequence of it; that I fully understand and agree to all of it; and that it may be presented to the Commission without my appearance. If the Commission accepts the Stipulation to Informal Disposition, I understand that I will receive a signed copy.



Penny Fairman, RN, ARNP, Respondent

1-21-06

Date

WSBA #

Attorney for Respondent

Date

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Section 4: ACCEPTANCE

The Commission accepts this Stipulation to Informal Disposition. All parties shall be bound by its terms and conditions.

DATED this 27th day of January, 2006.

STATE OF WASHINGTON
DEPARTMENT OF HEALTH
NURSING CARE QUALITY ASSURANCE
COMMISSION

Cheryl Jayson
Panel Chair

Presented by:

Lawrence J. Berg
Lawrence J. Berg, WSBA#22334
Department of Health Staff Attorney

January 26, 2006
Date

INTERNAL TRACKING NUMBERS:

Program Nos. 2004-12-0010RN and 2004-06-0015AP

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EXHIBIT B

Findings of Fact, Conclusions of Law and Order

1 **ARIZONA STATE BOARD OF NURSING**
2 4747 North 7th Street Ste 200
3 Phoenix AZ 85014
4 602-889-5150

5 **IN THE MATTER OF PROFESSIONAL NURSE**
6 **LICENSE NO. RN038753**
7 **ISSUED TO:**

8 **PENNY LEA FAIRMAN,**
9 **Respondent.**

FINDINGS OF FACT,
 CONCLUSIONS OF LAW
 AND ORDER NO. 05A-0407091-NUR

10 A hearing was held before Brian Brendan Tully, Administrative Law Judge, at 1400 West
11 Washington Suite 101, Phoenix Arizona, on March 24, 2006. Daniel R. Christl, Assistant Attorney
12 General, appeared on behalf of the State. Respondent appeared personally and was represented by her
13 attorney, Charles Buri.
14

15 On April 13, 2006, the Administrative Law Judge issued Findings of Fact, Conclusions of Law
16 and Recommendations. On May 18, 2006, the Arizona State Board of Nursing met to consider the
17 Administrative Law Judge's recommendations. Based upon the Administrative Law Judge's
18 recommendations and the administrative record in this matter, the Board adopted the Administrative
19 Law Judge's recommendations for Findings of Fact and Conclusions of Law, and accepted the
20 Administrative Law Judge's recommended Order with the following modifications:
21

- 22
- 23 • Probation term number 2, "*Medical and Psychiatric Treatment*," as ordered by the Judge, was
24 modified to use the Board's standard requirement language for clarity and consistency;
 - 25 • Probation term number 8, "*Notification of Practice Settings*," as ordered by the Judge, was
26 modified to use the Board's standard requirement language for clarity and consistency and to
27 correct the Judge's language with regard to working for a Registry and facilities where she
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1 would be assigned because Probation term number 12 prohibits Respondent from working for a
2 Registry, etc.;

- 3 • Probation term number 9, "*Performance Evaluation Reports*," as ordered by the Judge, was
4 modified to use the Board's standard requirement language for clarity and consistency;
- 5 • Probation term number 16, "*Renewal of Licenses*," a typographically error was corrected as
6 follows: "practical nurse license" was changed to "professional nurse license;" and
7
- 8 • Add Probation term number 22, "*Completion of Probation*," which provides instructions to
9 Respondent on the completion of her Probation and was omitted from the Judge's Order.
10

11 **FINDINGS OF FACT**

12 1. The Arizona State Board of Nursing ("Board") has the authority to regulate and control
13 the practice of nursing in the State of Arizona.
14

15 2. Penny Lea Fairman ("Respondent") is the holder of professional nurse license number
16 RN038753 issued by the Board. At various times in her nursing career, Respondent has also held
17 licenses in Washington, California and Montana.
18

19 3. In Washington, Respondent was issued licenses to practice as a Registered Nurse and
20 as an Advanced Registered Nurse Practitioner in May 2002. As a nurse practitioner, Respondent had
21 prescribing privileges and was required to be knowledgeable of federal and state laws and regulations
22 related to her prescribing privileges.
23

24 4. On July 14, 2004, Respondent filed a renewal application for her Arizona professional
25 nurse license.
26

27 5. At the time Respondent filed her application, she was offered a position as Director of
28 Nursing at Northland Pioneer College in Arizona. The Arizona Nurse Practice Act requires the nurse
29

1 licensee holding that position be in good standing. Respondent was hired to the position and promoted
2 to Dean of Nursing, the position that she presently holds.

3
4 6. On Respondent's July 14, 2004, Arizona renewal application, Respondent answered
5 "Yes" to the question asking if she was currently under investigation or if a disciplinary action was
6 pending against her nursing license in another state.

7
8 7. Respondent attached to her renewal application correspondence to and from the
9 Washington State Department of Health ("WSDH") related to a complaint alleging verbal and physical
10 abuse of patient E.P. by Respondent at Bogachiel Clinic, Fork, Washington, on February 5, 2004.
11 This investigation was subsequently closed on or about October 10, 2004, by WSDH without any
12 disciplinary action.

13
14 8. At the time she submitted her renewal application, WSDH began another investigation
15 of a second complaint against Respondent regarding allegations of drug diversion and self-prescribing.

16
17 9. While WSDH sent Respondent notification of the second complaint by letter dated June
18 29, 2005, Respondent credibly testified that she had moved from Washington to Arizona and that letter
19 was not received by Respondent until after she had submitted her renewal application to the Board.

20
21 10. According to the WSDH letter dated June 29, 2005, on January 2, 2004, Respondent
22 faxed in and filled a prescription from Dr. Theodore Matheny for Vicodin (hydrocodone) 180 tablets
23 with one refill at the Chinook Pharmacy in Forks, Washington. On or about January 8, 2004,
24 Respondent then took the original hard copy prescription to the Wal-Mart Pharmacy in Port Angeles,
25 Washington, and filled it for 180 tablets of Vicodin.

26
27 11. On or about March 31, 2004, Respondent refilled the prescription from the Chinook
28 Pharmacy for 180 tablets of Vicodin.
29

1 12. On or about April 23, 2004, Respondent transferred the Wal-Mart prescription to the
2 Safeway Pharmacy in Port Angeles and received a partial refill of Vicodin 60 tablets.

3 13. On or about May 17, 2004, Respondent refilled the Wal-Mart/Safeway prescription for
4 the remaining 120 tablets of Vicodin.
5

6 14. According to Respondent's pharmacy profiles Chinook Pharmacy in Forks,
7 Washington, Safeway Pharmacy in Port Angeles, Washington, and Wal-Mart Pharmacy in Port
8 Angeles, Washington, Respondent received multiple prescriptions for controlled substances from at
9 least four different prescribers and three pharmacies in Washington.
10

11 15. Respondent resigned from her employment in Washington after the employer
12 confronted her about the used of those prescriptions.
13

14 16. On or about July 26, 2004, the Board's Reviewer, Brent Sutter, sent an RN/LPN
15 Renewal Application Deficiency Notice to Respondent notifying her that she submitted an incomplete
16 renewal application fee and failed to have submitted a detailed explanation of the WSDH action stated
17 in her application and paperwork related to that matter.
18

19 17. On or about July 28, 2004, Respondent sent Mr. Sutter a check for the renewal
20 application in the proper amount. She did not update her application to reflect a second complaint
21 having been initiated by the WSDH.

22 18. Respondent's application was assigned to Karen Grady, the Board's Nurse Practice
23 Consultant, for investigation. Ms. Grady is a registered nurse and a registered nurse practitioner.
24

25 19. During a September 16, 2004, interview with Ms. Grady, when asked about the second
26 complaint against her Washington nursing licenses, Respondent stated she had "no idea" what the
27 second complaint could be about. By that time Respondent had received the June 29, 2004, letter from
28 WSDH notifying her of the second complaint.
29

1 20. Four days later, on September 20, 2004, Respondent submitted a letter to the Board
2 stating that she had "completely forgotten" about the second WSDH complaint. Respondent also
3 submitted the notification letter from WSDH related to the second complaint, plus a copy of her July
4 10, 2004, four-page response to the WSDH related to the second complaint.
5

6 21. During an October 28, 2004, interview with Ms. Grady, when asked why she initially
7 stated she "forgot" the second complaint and then sent in the documentation a few days later,
8 Respondent stated she did not recall the second complaint until she "dug out the paperwork."
9 Respondent stated that she honestly did not remember, that she forgets things most days, and was
10 having memory trouble.
11

12 22. During the October 28, 2004, interview with Ms. Grady, Respondent stated that she had
13 been on Vicodin (hydrocodone) and/or Tylenol #3 for at least six years for chronic pain related to
14 arthritic knees. Respondent denied any problem with addiction or substance abuse and stated she just
15 had chronic pain. Respondent reported receiving Vicodin in August 2004 from Dr. Kelly Tracey,
16 D.O., in Show Low, Arizona. Respondent reported her last use of Vicodin was one-half of a tablet
17 two days prior (on or about October 26, 2004). When requested to provide a urine drug screen,
18 Respondent initially agreed. When she was informed the specimen needed to be provided the same
19 day, Respondent declined to provide the specimen, stating she could not afford it and could not get to
20 the laboratory. Respondent subsequently attempted to provide a specimen but was unable to provide
21 the quantity necessary.
22

23 23. During a December 14, 2004 interview with Ms. Grady, Respondent reported she was
24 taking hydrocodone prescribed by Dr. Tracey while waiting for root canal surgery and knee
25 replacement surgery, and was receiving prescriptions only from Dr. Tracey. Respondent's
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1 prescription records from Wal-Mart reflect that Respondent had been prescribed hydrocodone by Dr.
2 Pat Goodman, D.M.D., on November 5, 2004, and November 18, 2004.

3
4 24. According to Respondent's pharmacy profiles from Safeway Pharmacy, Lakeside,
5 Arizona, Safeway Pharmacy, Show Low, Arizona, and Wal-Mart Pharmacy, Show Low, Arizona,
6 Respondent received hydrocodone prescriptions from four different prescribers and three pharmacies
7 from July 29, 2004, through December 28, 2004, although Respondent reported only obtaining
8 prescriptions from Dr. Tracey.

9
10 25. On or about December 14, 2004, during an interview with Ms. Grady, Dr. Jeanne
11 Swarthout, Vice President of Instructional Services at Northland Pioneer College, stated Respondent
12 only made her aware of one issue with the WSDH involving allegations of abusive behavior to a
13 patient, and did not discuss a second complaint with her. In an interview with Ms. Grady that day,
14 Respondent confirmed to Board staff that she did not discuss the specifics of the second interview with
15 Dr. Swarthout.

16
17 26. On or about December 17, 2004 during an interview with Ms. Grady, Respondent was
18 confrontational and frequently attempted to redirect the conversation away from the issue of the
19 complaints on her Washington nursing licenses. Respondent reported that she was still taking
20 hydrocodone for her root canal and planned to have her knee replacement surgery in June.

21
22 27. On or about January 21, 2005, the Board issued Interim Order Case No. 0407091 or
23 Respondent to undergo a Psychiatric/Addictionologist evaluation performed by a Board approved
24 evaluator.

25
26 28. On or about February 18, 2005, the WSDH filed a Statement of Charges against
27 Respondent related to the allegations of filling the January 2, 2004, hydrocodone prescription at two
28 separate pharmacies, then refilling both prescriptions.

1 29. On or about March 11, 2005, Respondent underwent a Psychiatric/Addictionologist
2 evaluation with Dr. Steven Eickelberg, who is a Board approved evaluator.

3 30. According to Respondent's evaluation report from Dr. Eickelberg, Respondent has
4 Depression in remission, which is stable on Zoloft. Respondent also has chronic pain related to
5 degenerative joint disease. Dr. Eickelberg reported that Respondent's memory and insight was quite
6 intact except as to her behavior surrounding the multiple uses of one prescription. Dr. Eickelberg
7 reported that he found no consistent evidence that Respondent met criteria for Opioid Abuse or
8 Dependence, however stated that unanswered questions regarding her behavior with her prescriptions
9 in Washington and the remoteness of her practice location in Arizona necessitates that she be
10 monitored.
11

12 31. Dr. Eickelberg wrote that Respondent's lack of, or disregard for,
13 responsible/vigilant/appropriate handling of controlled substance prescriptions provides sufficient
14 evidence that she is unfit to practice safely as a nurse practitioner, and should not practice in settings
15 where she has access to narcotic medications.
16

17 32. Dr. Eickelberg recommended that Respondent have her Depression and Zoloft
18 medication managed by a psychiatrist with expertise in managing patients with chronic pain and
19 somatic disorders, utilize one prescribing physician, utilize one pharmacy for all controlled substance
20 prescriptions, provide copies of all prescriptions and random drug screens for five years, have onsite
21 monitoring, no prescribing privileges or access to controlled substances in the workplace, and no
22 registry or home care responsibilities.
23

24 33. On or about January 21, 2006, Respondent executed a Stipulation to Informal
25 Disposition with the WSDH, a non-disciplinary action. Notwithstanding the expiration of her
26 Washington Registered Nurse and her Advanced Registered Nurse Practitioner licenses, which were
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1 still subject to disciplinary action, Respondent agreed to specified terms of the Informal Disposition.
2 The WSDH's Statement of Charges was withdrawn.

3 34. Respondent testified that she is compliant with the terms of the Informal Disposition.

4 35. Respondent received favorable reviews from her supervisor, Dr. Swarthout.

5 36. Respondent's illegal use of her prescriptions in Washington as described in the above
6 Findings, her lack of remorse for her actions and her failure to disclose her actions to the Board
7 warrant disciplinary action by the Board. This finding is made knowing that disciplinary action
8 against Respondent will result in her becoming ineligible to remain in her current position as Dean of
9 Nursing due to the requirements of the Nurse Practice Act.
10
11

12 CONCLUSIONS OF LAW

13 1. The Board has jurisdiction over Respondent and the subject matter in this case.

14 2. Pursuant to A.R.S. § 41-1092.07(G) (2), the Board has the burden of proof in this
15 matter. The standard of proof is a preponderance of the evidence. A.A.C. R2-19-119(A).
16

17 3. The conduct and circumstances described in the above Findings constitute
18 unprofessional conduct by Respondent pursuant to A.R.S. § 32-1601(16) (a) (committing fraud or
19 deceit in obtaining, attempting to obtain or renewing a license or a certificate issued pursuant to this
20 chapter).
21

22 4. The conduct and circumstances described in the above Findings constitute
23 unprofessional conduct by Respondent pursuant to A.R.S. § 32-1601(16) (h) (committing an act that
24 deceives, defrauds or harms the public).
25

26 5. The conduct and circumstances described in the above Findings constitute
27 unprofessional conduct by Respondent pursuant to A.R.S. § 32-1601(16)(j) (violating a rule that is
28 adopted by the board pursuant to this chapter), specifically, A.A.C. R4-19-403(13) (obtaining,
29

1 possessing, administering, or using any narcotic, controlled substance, or illegal drugs in violation of
2 any federal or state criminal law, or in violation of the policy of any health care facility, school,
3 institution, or other work location at which the nurse practices).

4
5 6. The conduct and circumstances described in the above Findings constitute
6 unprofessional conduct by Respondent pursuant to A.R.S. § 32-1601(16) (j) (violating a rule that is
7 adopted by the board pursuant to this chapter), specifically, A.A.C. R4-19-405(15) (engaging in fraud,
8 misrepresentation, or deceit in writing the licensing examination or on an application for licensure or a
9 renewal of license).

10
11 7. The above described unprofessional conduct by Respondent are grounds for
12 disciplinary action against her pursuant to A.R.S. §§ 32-1663 and 32-1664.

13
14 8. At the hearing the Board withdrew Alleged Violations No. 5 and 8 of the Complaint
15 and Notice of Hearing, the terms of which are incorporated herein by reference.

16 **ORDER**

17 In view of the Findings of Fact and Conclusions of Law, the Board issues the following Order:

18 A. Respondent's license is placed on probation for thirty-six months. Prior to termination
19 of probation, Respondent shall work as a professional nurse for a minimum of twelve months, (not less
20 than sixteen hours a week).

21
22 B. If Respondent is noncompliant with any of the terms of the Order, Respondent's
23 noncompliance shall be reviewed by the Board for consideration of possible further discipline on
24 Respondent's nursing license.

25
26 C. If Respondent is convicted of a felony, Respondent's license shall be automatically
27 revoked for a period of five years.

28 D. The probation is subject to the following terms and conditions:
29

TERMS OF PROBATION

1. Stamping of License

Within seven days of the effective date of this Order, Respondent shall submit her license to be stamped "PROBATION." During the term of the probation, if the Board issues any certificates or licenses authorized by statute, except a nursing assistant certificate, such certificate or license shall also be stamped "PROBATION."

2. Medical and Psychiatric Treatment

Within thirty days of the effective date of this Order, Respondent shall submit to the Board for approval the name of a Psychiatrist of Respondent's choice with expertise in managing patients with chronic pain and somatic disorders to conduct treatment for depression and medication management. Within seven days of receipt of approval from the Board Respondent shall make an appointment to begin participation in treatment. Respondent shall execute the appropriate release of information form(s) to allow the treating professional(s) to communicate information to the Board or its designee, and Respondent shall immediately provide a copy of the entire Order to all treating professional(s). Within seven days of the beginning of treatment, Respondent shall cause any and all treating professional(s) to provide written verification of enrollment in treatment and verifying receipt of the Order. Thereafter, Respondent shall cause any and all treating professional(s) to provide quarterly reports to the Board according to the quarterly reporting schedule assigned to Respondent. Respondent shall continue undergoing treatment until the treating professional(s) notify the Board, in writing on letterhead, that treatment is no longer needed. The Board reserves the right to amend the Order based on recommendation(s) of treating professional(s).

1 3. Drug Testing

2 Within 7 days of the effective date of this Order, Respondent shall enroll in a program
3 that meets Board criteria for random drug testing, which shall include both urine screening and hair
4 sampling. Random drug testing shall be done once per month and may be required more frequently as
5 requested by the Board or its designee. Respondent shall notify the drug testing laboratory and the
6 Board, in writing, of unavailability to test before the anticipated absence. If Respondent is unable to
7 submit a specimen and hair sample on a date requested due to illness, Respondent must provide in
8 writing within 7 days of the missed specimen and hair sample, documentation from a medical provider
9 who has personally seen Respondent on the day of the requested drug test confirming that Respondent
10 was not physically able to report to the laboratory for drug testing. In addition, any occurrence of the
11 following conditions constitutes noncompliance by Respondent: a positive drug test showing evidence
12 of any drug other than an authorized drug; submission of a specimen or hair sample where the integrity
13 has been compromised, as indicated by the presence of adulterants or dilute; failure to submit to a drug
14 test on a day when a drug test has been requested by either the Board, its designee, or the laboratory;
15 and submission of urine sample that is below the acceptable volume or temperature to be tested. A
16 positive drug test showing evidence of any drug other than an authorized drug shall result in
17 immediate notification of Respondent's employer by the Board.
18

19 4. Abstain From Unauthorized Drug Use/Proof of Prescription

20 Respondent shall abstain completely from the personal use or possession of controlled
21 substances, as defined in the State Controlled Substances Act, and dangerous drugs as defined by law,
22 or any drugs requiring a prescription.
23

24 Orders prohibiting Respondent from personal use or possession of controlled
25 substances or dangerous drugs do not apply to medications lawfully prescribed to Respondent for a
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1 bona fide illness or condition by a medical provider. During the duration of the entered Order,
2 Respondent shall select one medical provider to coordinate her health care needs and to be aware of all
3 prescriptions utilized by Respondent. Respondent shall immediately submit to that provider a copy of
4 the entered Order to include the Findings of Fact and Conclusions of Law and shall execute all release
5 of information form(s) as required by the Board or its designee. The medical provider shall, within
6 one week of the effective date of the entered Order, inform the Board, in writing, of knowledge of
7 Respondent's entered Order and provide a list of medications prescribed for Respondent. During the
8 duration of the probation period, Respondent shall cause all providers to notify the Board of any
9 additional medications ordered by the provider. The notification shall be made in writing within one
10 week of the provider's issuance of the prescription.
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13 If Respondent has a lawful prescription for a narcotic or mood-altering drug,
14 Respondent shall cause her prescribing provider to submit monthly reports to the Board by the 30th day
15 of each month regarding the continued need for the prescribed narcotic or mood-altering medications.
16 Respondent shall keep a written record of medications taken, including over-the-counter drugs, and
17 produce such record upon request by the Board or its designee.
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20 5. Abstain From Alcohol Within 12 Hours of Duty

21 Respondent shall not consume alcohol within 12 hours of reporting to work.

22 6. One Medical Provider

23 Respondent shall have one Medical Provider and shall advise the Board in writing of
24 who her Medical Provider will be. Respondent shall also advise the Board in writing of any change of
25 Medical Provider.
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1 7. One Pharmacy/Pharmacy Profiles

2 Respondent shall have her prescriptions dispensed from one pharmacy, which she shall
3 inform the Board of the name and location of that pharmacy within seven days of the effective date of
4 the entered Order in this matter. Respondent shall not change her pharmacy without the written
5 consent of the Board or its designee. Respondent shall also furnish, or give the Board consent to
6 obtain, copies of her pharmacy profiles and prescriptions upon request of the Board or its designee.
7

8 8. Notification of Practice Settings

9 Within three (3) days of the effective date of the entered Order in this matter,
10 Respondent shall provide a copy of the entire Order to any current nursing employer. Respondent
11 shall cause all immediate nursing supervisors, including the Registry and facility(s) at which she is
12 assigned, to inform the Board within 72 hours, in writing and on their letterhead, acknowledgment of
13 the supervisor's receipt of a copy of the entered Order and their ability to comply with the conditions
14 of probation.
15

16 Thereafter, any setting in which Respondent accepts employment during the period of
17 probation, which requires RN licensure, shall be provided with a copy of the entire entered Order on or
18 before the date of hire. Within 72 hours of Respondent's date of hire, Respondent shall cause her
19 immediate supervisor to inform the Board, in writing and on employer letterhead, acknowledgment of
20 the supervisor's receipt of the entered Order and the employer's ability to comply with the conditions
21 of probation.
22

23 In the event Respondent is attending a nursing program, Respondent shall provide a
24 copy of the entered Order to the Program Director. Respondent shall cause the Program Director to
25 inform the Board, in writing and on school letterhead, acknowledgment of the program's receipt of the
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1 entered Order and the program's ability to comply with the conditions of probation during clinical
2 experiences.

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4 9. Performance Evaluation Reports

5 Within 7 days of each assigned quarterly reporting due date, if Respondent is working
6 in any position which requires nursing licensure, Respondent shall cause every employer Respondent
7 has worked for during the quarter to provide to the Board, in writing, employer evaluations on the
8 Board-approved form. The first report is due on the first assigned quarterly report due date after the
9 effective date of the Order. Receipt of notice of an unsatisfactory employer evaluation, verbal or
10 written warning, counseling or disciplinary action any of which pertain to patient care practice issues,
11 or termination from a place of employment shall be considered as noncompliance with the terms of the
12 Order. In the event Respondent is not working in a position which required RN licensure, or attending
13 school during any quarter or portion thereof, Respondent shall provide to the Board, in writing, a self-
14 report describing other employment or activities on the Board-approved form. Failure to provide
15 employer evaluations or self-reports within 7 days of the reporting date shall be considered as
16 noncompliance with the terms of the Order.
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20 10. Practicing Under On-Site Supervision

21 Respondent shall practice as a professional nurse under the on-site supervision of a
22 professional nurse in good standing with the Board. On-site supervision is defined as having a
23 professional nurse present in the building while Respondent is on duty. The supervising nurse at any
24 current or future employment requiring Respondent to be licensed in nursing shall have read the
25 effective Order in this matter, which shall include the Findings of Fact and Conclusions of Law
26 together with the terms and conditions of Respondent's probation, and shall provide input on
27 Respondent's evaluations to the Board. The supervising nurse shall be primarily one person, who may
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periodically delegate to other qualified personnel, who shall also have read the effective Order in this matter as above provided. In the event the supervising nurse is no longer responsible for the supervision required by this paragraph, Respondent shall cause her new supervising nurse to inform the Board, in writing and on employer letterhead, acknowledgment of the new supervisor's receipt of a copy of the effective Order in this matter, as above provided, and the new supervising nurse's agreement to comply with the conditions of probation within seven days of assignment of a new supervising nurse. The supervising nurse must provide evidence of contact, for the purposes of evaluating Respondent's nursing performance, at least once per shift during the first six months of probation. Such evidence to the Board may include a documentation log indicating the dates and times of contact, and signatures of the supervising nurse and Respondent.

11. Drug Access

Respondent shall not have access to controlled substances in the workplace.

12. Night Shift/Registry/Traveling Nurse/Float Pool/Home Health Work/On-call Prohibited

Respondent shall not work in the following nursing settings: night shift; registry; traveling nurse; float pool; home health work; or, on-call.

13. Out-of-State Practice/Residence

Before any out-of-state practice or residence can be credited toward fulfillment of these terms and conditions, it must first be approved by the Board prior to leaving Arizona. If Respondent fails to receive such approval before leaving Arizona, none of the time spent out-of-state will be credited to the fulfillment of the terms and conditions of the entered Order.

14. Release of Information Forms

Respondent shall immediately execute all release of information forms as may be required by the Board or its designee.

1 15. Interview with the Board or its Designee

2 Respondent shall appear in person or if residing out of state telephonically for
3 interviews with the Board or its designee upon request at various intervals and with reasonable notice.
4

5 16. Renewal of License

6 In the event Respondent's professional nurse license is scheduled to expire while the
7 entered Order is in effect, Respondent shall apply for renewal of the license, pay the applicable fee,
8 and otherwise maintain her qualification to practice nursing in Arizona.
9

10 17. Change of Employment/Personal Address/Telephone Number

11 Respondent shall notify the Board, in writing, within one week of any change in
12 nursing employment, personal address or telephone number.
13

14 18. Obey All Laws

15 Respondent shall obey all federal, state and local laws, and all laws/rules governing the
16 practice of nursing in Arizona. Offenses such as driving under the influence may subject Respondent
17 to further disciplinary action, however, commission of minor civil moving traffic violations are
18 excluded.
19

20 19. Costs

21 Respondent shall bear all costs of complying with the entered Order.

22 20. Violations of Probation

23 If Respondent is noncompliant with the entered Order in any respect, the Board or its
24 designee may notify Respondent's employer and/or nursing program of the noncompliance.
25 Additionally, the Board may revoke probation and take further disciplinary action for noncompliance
26 with the entered Order after affording Respondent notice and the opportunity to be heard. If a
27 complaint or petition to revoke is filed against Respondent during probation, the Board shall have
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1 continuing jurisdiction until the matter is final, and the period of probation shall be extended until the
2 matter is final.

3
4 21. Voluntary Surrender of License

5 Respondent may, at any time the entered Order is in effect, voluntarily request
6 surrender of her license.

7
8 22. Completion of Probation

9 Upon successful completion of the terms of probation, Respondent shall request formal
10 review by the Board, and after formal review by the Board, Respondent's nursing license may be fully
11 restored by the appropriate Board action if compliance with this Order has been demonstrated.

12 Pursuant to A.R.S. § 41-1092.09, Respondent may file, in writing, a motion for rehearing
13 or review within 30 days after service of this decision with the Arizona State Board of Nursing. The
14 motion for rehearing or review shall be made to the attention of Susan Barber, R.N., M.S.N., Arizona
15 State Board of Nursing, 4747 North 7th Street Ste 200, Phoenix AZ 85014. For answers to questions
16 regarding a rehearing, contact Susan Barber at (602) 889-5161. Pursuant to A.R.S. § 41-1092.09(B),
17 if Respondent fails to file a motion for rehearing or review within 30 days after service of this
18 decision.
19
20

21 DATED this 18th day of May, 2006.

22 ARIZONA STATE BOARD OF NURSING

23 SEAL

24 *Joey Ridenour*

25 Joey Ridenour, R.N., M.N.
26 Executive Director

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